

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 13-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 13-25 are directed to a computer program to organize and display. In order for a claimed invention that is directed to such a computer implemented method of calculation, or a computer program to be statutory, the claimed invention must accomplish a practical application. That is the claimed invention must transform an article or physical object to a different state or thing, or produce a useful, concrete and tangible result. State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. Also see "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility", OG Notices: 22 November 2005. It is clear from claims 13-25 that the claims merely involve calculations and manipulations of data in performing computations. The claimed invention does not result in a physical transformation. The inputs are numbers and the outputs are also numbers. The result of the invention is merely numerical values without a practical application recited in the claims. It is not real world result, and thus is not useful, concrete and tangible. Therefore, the claimed invention is directed to non-statutory subject matter as the claims fail to assert a practical application to the invention.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kojima et al. (6236398).

Re claim 1, Kojima et al. discloses a method comprising: displaying a plurality of three-dimensional items (a-e, see figure 2 for example), each three-dimensional item representing user information; and arranging the three-dimensional items around a perimeter of a given geometric shape (table 7, 8 for example) forming a portion of a closed area such that the three-dimensional items are positioned along the perimeter and are capable of being rotated around the perimeter (see figures 2 and 11A for example), wherein the three-dimensional items include a focus item (e, see figure 11A for example) and at least one peripheral item adjacent the focus item (d, f, see figure 11A for example).

Re claim 2, Kojima et al. discloses a method, further comprising a peripheral item adjacent the focus item on each side of the focus item (see figure 11A for example).

Re claim 3, Kojima et al. discloses a method, further comprising arranging at least one background item adjacent the peripheral item (g, c for example, see figure 2 and 11A).

Re claim 4, Kojima et al. discloses a method, wherein arranging the three-dimensional items along a perimeter comprises arranging the three-dimensional items along an arc of an ellipse (see figure 2 for example).

Re claim 5, Kojima et al. discloses a method, wherein arranging the three-dimensional items along a perimeter comprises arranging the three-dimensional items along an arc of a circle (see figure 2 for example).

Re claim 8, Kojima et al. discloses a method further comprising rotating the items around the perimeter upon receiving a user request (see figure 2 and 11A for example).

Re claim 9, Kojima et al. discloses wherein the user request comprises selection of the peripheral item, and rotating the items includes rotating the focus item to a peripheral position thereby causing the focus item to become a new peripheral item and the peripheral item to a focus position thereby causing the peripheral item to become a new focus item (see figures 2 and 11A for example).

Re claim 10, Kojima et al. discloses a method, further comprising displaying metadata relevant to the focus item and each peripheral item (see claim 10 for example).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 6, 7, 12-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. in view of MacPhail (6661434).

Re claim 6, Kojima et al. substantially discloses a method as set forth in claim 1 above (see figures 2, 11A and column 6 lines 35-45 for example). Kojima et al. does not explicitly disclose a method, further comprising scaling the focus item to a first set width and scaling each peripheral item to a second set width, wherein the first set width is greater than the second set width. However, MacPhail teaches scaling each peripheral item to different size (icon size increased/decreased, see column 9 lines 51052 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the method further comprising scaling the focus item to a first set width and scaling each peripheral item to a second set width, wherein the first set width is greater than the second set width by using the method of using

increased or decreased sizing as taught by MacPhail on the method of Kojima et al. in order to show different priorities of the icons.

Re claim 7, Kojima et al. substantially discloses a method as set forth in claim 3 above (see figures 2, 11A and column 6 lines 35-45 for example). Kojima et al. does not explicitly disclose a method, further comprising scaling the focus item to a first set width, scaling each peripheral item to a second set width, and scaling each background item to a third set width, wherein the first set width is greater than the second set width and the second set width is greater than the third set width. However, MacPhail teaches scaling each peripheral item to different size (icon size increased/decreased, see column 9 lines 51052 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the method further comprising scaling the focus item to a first set width, scaling each peripheral item to a second set width, and scaling each background item to a third set width, wherein the first set width is greater than the second set width and the second set width is greater than the third set width by using the method of using increased or decreased sizing as taught by MacPhail on the method of Kojima et al. in order to show different priorities of the icons.

Re claim 12, Kojima et al. discloses a method as set forth in claim 1 above. Kojima et al. does not explicitly disclose a computer readable medium storing executable instructions for performing the method. However, MacPhail teaches of storage medium adapted to store information (see column 4 lines 47-55 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a computer readable medium storing executable instructions for

performing as taught by MacPhail on the method of Kojima et al. in order to store the instructions for the application to be used.

Re claim 13, Kojima et al. substantially discloses a computerized system comprising: item controls for displaying a plurality of three-dimensional items, each three-dimensional item providing access to information; orientation controls for arranging the items around a perimeter of a given geometric shape that forms a portion of a closed area, the three-dimensional item being positioned along the perimeter and capable of being rotated around the perimeter; and scalability controls for scaling a focus item to have a first set width and at least one peripheral item to have a second set width smaller than the first set width (see figures 2, 11A and column 6 lines 35-45 for example). Kojima et al. does not explicitly disclose scalability controls for scaling a focus item to have a first set width and at least one peripheral item to have a second set width smaller than the first set width. However, MacPhail teaches scaling each peripheral item to different size (icon size increased/decreased, see column 9 lines 51052 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use scalability controls for scaling a focus item to have a first set width and at least one peripheral item to have a second set width smaller than the first set width by using the system of using increased or decreased sizing as taught by MacPhail on the system of Kojima et al. in order to show different priorities of the icons.

Re claim 14, note that Kojima et al. discloses a system, wherein the item controls position a first peripheral item adjacent the focus item on a first side and a

second peripheral item adjacent the focus item on a second side (see figure 2 and 11A for example).

Re claim 15, note that Kojima et al. discloses a system, wherein the item controls arrange at least one background item adjacent the peripheral item (see figure 2 and 11A for example).

Re claim 16, note that Kojima et al. discloses a system, wherein the perimeter comprises an elliptical arc (see figure 2 for example).

Re claim 17, note that Kojima et al. discloses a system, wherein the perimeter comprises a circular arc (see figure 2 for example).

Re claim 18, note that MacPhail teaches of a system, wherein the scalability controls further comprise means for scaling the focus item to a first set width and scaling each peripheral item to a second set width, wherein the first set width is greater than the second set width (see icon size can be increased/decreased, see column 9 lines 51-52 for example).

Re claim 19, note that MacPhail teaches of a system, wherein the scalability controls further comprise means for scaling the focus item to a first set width, scaling each peripheral item to a second set width, and scaling each background item to a third set width, wherein the first set width is greater than the second set width and the second set width is greater than the third set width (see icon size can be increased/decreased, see column 9 lines 51-52 for example).

Re claim 20, note that Kojima et al. disclose a system, further comprising a rotation control module for rotating the items around the perimeter upon receiving a user request (see figure 1 for module for example).

Re claim 21, note that Kojima et al. discloses wherein the user request comprises selection of the peripheral item, and the rotation control module rotates the focus item to a peripheral position thereby causing the focus item to become a new peripheral item and the peripheral item to a focus position thereby causing the peripheral item to become a new focus item (see figures 2 and 11a for example).

Re claim 22, note that Kojima et al. discloses a system, further comprising information display controls for displaying metadata relevant to the focus item and each peripheral item (see claim 10 for example).

Re claim 23, note that Kojima et al. discloses a system, further comprising view change controls for altering an appearance of an item upon a change in item status (see figures 2 and 11A for example).

Re claim 24, note that MacPhail teaches of a system, wherein the perimeter comprises a triangular border (see figure 3 and column 9 lines 25-26 for example).

Re claim 25, note that MacPhail teaches of a system, wherein the perimeter comprises a rectangular border (see figure 3 and column 9 lines 25-26 for example).

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. in view of Beier et al. (20030227453).

Re claim 11, Kojima et al. substantially discloses a method as set forth in claim 8 above (see figures 2, 11A and column 6 lines 35-45 for example). Kojima et al. does

not explicitly disclose a method, wherein rotating the items comprises computing a starting point angle, computing an ending point angle, and interpolating between the computed angles. However, Beier et al. teaches of wherein rotating the items comprises computing a starting point angle, computing an ending point angle, and interpolating between the computed angles (see paragraph 0085 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the method wherein rotating the items comprises computing a starting point angle, computing an ending point angle, and interpolating between the computed angles as taught by Beier et al. on the method of Kojima et al. in order to display changes in position.

Response to Arguments

9. Applicant's arguments filed 8/28/07 have been fully considered but they are not persuasive.

In response to applicant's arguments that claims 13-25 meet the 101 requirements, examiner disagrees. The device claim still requires a hardware component, to meet the statutory requirements of 101, as discussed above.

10. Applicant's arguments with respect to claims 1-11 and 13-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinhee J. Lee whose telephone number is 571-272-1977. The examiner can normally be reached on M-F at 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-2100 ext. 74. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jinhee J Lee/
Primary Examiner, Art Unit 2174

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